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ORIGINAL

EX PARTE OR LATE FILED

August 8, 1996

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: CC Docket No. 96-112
NOTICE OF ORAL EX PARTE PRESENTATIONS

Dear Mr. Caton:

On Wednesday, August 7, Joe Waz of Comcast Corporation and Dick Lee of Snavely, King and Associates met with Jim Coltharp of Commissioner Quello's office and Anita Wallgren of Commissioner Ness' office. The subject was Comcast's comments in the above-referenced proceeding. The attached presentations were handed out.

If there are any questions concerning this matter, please contact the undersigned.

Respectfully submitted,

Leonard J. Kennedy
Leonard J. Kennedy
Counsel for Comcast Corporation

LJK:ptp

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INTEGRATED BROADBAND NETWORK

Residence Only

1.	Households	100,000,000
2.	Cost per household	$ 1,500
3.	Total Cost (L1 x L2)	$150,000,000,000
4.	Additions per year (L3/15)	$ 10,000,000,000
5.	1995 LEC additions (SOCC)	$ 19,481,821,000
6.	Percent (L4/L5)	51%

Calculation of Video Incremental Cost As A Percent Of Total Incremental Cost In An Integrated Network

Network	Investment Per Home	Percent
1. Integrated Network	$1222	100%
2. Stand-Alone Video	1017	83
3. Stand-Alone Telephone	696	57
4. Video Incremental (L1 - L3)	526	43
5. Telephone Incremental (L1 - L2)	205	17
6. Total Incremental (L4 + L5)	731	60
7. Video Incremental As Percent Of Total Incremental (L4/L6 x 100)	—	72

Source:

FCC, Applications of Pacific Bell, File Nos. W-P-C 6913-6916, Petition to Deny Pacific Bell's Section 214 Video Dialtone Applications of the California Cable Television Association, February 9, 1994, Affidavit of Leland L. Johnson, Ph.D., p. 14.

Cost Allocation Methology Results

FCC Proposed Methodology:*

$600 Common cost per passing
x 100K Passings
$60M Total common cost
x 50% Fixed allocator
$30M Common cost allocated to video
÷ 30K Subscribers (30% Penetration)
$1000 Common cost per subscriber allocated to video
+ $465 Direct video cost per subscriber
$1465 Total video cost per subscriber

USW Proposed Methodology:*

$600 Common cost per passing
x 50% Fixed allocator
$300 Common cost per subscriber allocated to video
+ $465 Direct video cost per subscriber
$765 Total video cost per subscriber

$1330 Total HFC cable stand alone (overbuild) video cost per subscriber*

$$\frac{\$1330 \times 30{,}000}{100{,}000} = \$399 \text{ per passing (?)}$$

* assumes 100,000 passings @ 30% penetration

Cost Allocation Methology Results

FCC Proposed Methodology:*

$600 Common cost per passing
x 100K Passings
$60M Total common cost
x 50% Fixed allocator
$30M Common cost allocated to video
÷ 30K Subscribers (30% Penetration)
$1000 Common cost per subscriber allocated to video
+ $465 Direct video cost per subscriber
$1465 Total video cost per subscriber

USW Proposed Methodology:*

$600 Common cost per passing
x 50% Fixed allocator
$300 Common cost per subscriber allocated to video
+ $465 Direct video cost per subscriber
$765 Total video cost per subscriber

~~[illegible]~~ $3333 **Total HFC cable stand alone (overbuild) video cost per subscriber***

$$\frac{\$1000 \text{ per passing} \times 100{,}000}{30{,}000 \text{ subscribers}} = \underline{\underline{\$3333}} \text{ per subscriber}$$

* assumes 100,000 passings @ 30% penetration

Cost Allocation Methology Results

COMCAST ~~FCC~~ Proposed Methodology:*

$600 Common cost per passing
x 100K Passings
$60M Total common cost
70 x ~~[illegible]%~~ Fixed allocator
42 ~~$[illegible]~~M Common cost allocated to video
÷ 30K Subscribers (30% Penetration)
1400 ~~$[illegible]~~ Common cost per subscriber allocated to video
+ $465 Direct video cost per subscriber
1865 ~~$[illegible]~~ **Total video cost per subscriber**

USW Proposed Methodology:*

$600 Common cost per passing
x 50% Fixed allocator
$300 Common cost per subscriber allocated to video
+ $465 Direct video cost per subscriber
$765 Total video cost per subscriber

~~$[illegible]~~ **Total HFC cable stand alone (overbuild) video cost per subscriber***
$3333

* assumes 100,000 passings @ 30% penetration

USW COST PROPOSAL

($000)

USW Video Share a	Number of Subscribers b=ax100,000	Common Cost Video c=bx$300	Common Cost Telephone d=$60,000-a
0	0	$ 0	$60,000
10	10,000	3,000	57,000
30*	30,000	9,000	51,000
50	50,000	15,000	45,000
100	00,000	30,000	30,000

* Assumed Penetration

MEMORANDUM

August 7, 1996

Re: Major Issues in Open Video Services ("OVS") Cost Allocation Proceeding, CC Docket No. 96-112

- **THE 1934 ACT AND 1996 ACT REQUIRE THE COMMISSION TO ESTABLISH COST ALLOCATION RULES TO PREVENT LECS FROM CROSS-SUBSIDIZING OVS VENTURES.**

  - The Communications Act of 1934, as amended, expressly requires the Commission to draw a line between regulated and nonregulated services and maintain proper cost allocation standards:

    > The Commission shall, by rule, prescribe a uniform system of accounts for use by telephone companies. Such uniform system shall require that each common carrier shall maintain a system of accounting methods, procedures, and techniques (including accounts and supporting records and memoranda) which shall ensure a proper allocation of all costs to and among classes of such services, facilities, and products) which are developed, manufactured, or offered by such common carriers.

  47 U.S.C. § 220(a)(2).

  - LECs are prohibited from engaging in cross-subsidization, and the Commission is statutorily obligated to establish rules to prevent cross-subsidization. Under Section 254(k) of the Telecommunications Act of 1996 (the "1996 Act"),

    > A telecommunications carrier may not use services that are not competitive to subsidize services that are subject to competition . . . .

  47 U.S.C. § 254(k); *see also OVS Notice*, at ¶ 22.

  - The language providing that the Commission shall undertake these responsibilities is an unambiguous legislative mandate that statutorily binds the Commission. *ACLU v. FCC*, 823 F.2d 1554, 1565-70 (D.C. Cir. 1987) (quoting *Chevron v. NRDC*, 467 U.S. 837, 842-3 (1984) (where Congress has "spoken directly and specifically . . . 'that is the end of the matter'" and the agency must "'give effect to the unambiguously expressed intent of Congress'.")).

- **PART 64 SEPARATION OF REGULATED AND NONREGULATED COSTS IS VITAL TO POLICING CROSS-SUBSIDIZATION AND COMPETITION.**

  - Separating regulated telephony costs from nonregulated OVS costs will help to detect and prevent LEC cross-subsidization.

  - In an *ex parte* filed in this docket on July 12, 1996, Alfred E. Kahn asserts that cost allocation is unnecessary, and private investors will bear the entire cost and risk of "innovative ventures." On the contrary, as long as LECs have market power, there is a danger that ratepayers will fund competitive activities unless cost allocation rules prevent it.

  - In USTA's *ex parte* submitted in this docket on July 22, 1996, Laurits R. Christensen argues that the likely effect of broadband facility investment on LEC productivity will be slight. Assuming a 10% growth in annual gross additions ($2B), he calculates a .3% increase in TFP input. At this rate of investment, conversion to broadband would take 75 years. Assuming a more reasonable 15-year conversion, gross additions will increase five times Christensen's assumption that is 50% ($10B), and the effect on the TFP input will be to raise it 1.5% *per year*, thus lowering LEC productivity by 1.5% per year. The effect is substantial because of compounding over time.

- **THE COMMISSION SHOULD ADOPT A 70-30 FIXED ALLOCATION FACTOR FOR LEC COMMON OUTSIDE PLANT.**

  - Based on the stand-alone cost of the telephone network compared to the costs of an integrated network, over 70 percent of the common costs associated with outside plant used for regulated telephone and video services should be allocated to nonregulated.

  - LEC proposals that allocate dedicated costs and virtually all common costs to video are unsupported.

  - Part 64 rules should require that LECs reclassify plant usable for telephony or OVS purposes to a common cost pool, and allocate a specified, significant fixed percentage not related to OVS penetration to nonregulated accounts.